

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

EVERETT SPILLARD, II,

No. 2:20-cv-0702 KJM CKD P

Plaintiff,

ORDER

v.

COSTA, et al.,

Defendants.

On September 24, 2021, the magistrate judge dismissed the plaintiff's complaint for failure to state a claim. Prev. Order (Sept. 24, 2021) at 14, ECF No. 14. The magistrate judge noted that the allegations were "vague, confusing and conclusory." *Id.* Rather than filing an amended complaint, the plaintiff chose to rest on the allegations of his previously dismissed complaint. *See* Findings and Recommendations at 1, ECF No. 16. On January 12, 2022, this court dismissed the case. ECF No. 20. Plaintiff filed a notice of appeal on February 7, 2022. ECF No. 22.

On February 25, 2022, the Ninth Circuit asked that this court determine whether plaintiff's in forma pauperis status should continue on appeal or whether in forma pauperis status should be revoked because the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also* *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of in forma pauperis status appropriate where district court finds appeal is frivolous).

For the reasons stated in the magistrate judge’s order dated September 24, 2021, the magistrate judge’s findings and recommendations dated October 28, 2021, and this court’s order of dismissal, plaintiff’s appeal is frivolous and taken in bad faith.

Accordingly, IT IS HEREBY ORDERED that plaintiff<sup>7</sup> in forma pauperis status is revoked for purposes of appeal.

DATED: August 10, 2022.

**CHIEF UNITED STATES DISTRICT JUDGE**